



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TEXAS BACK INSTITUTE
PO BOX 262409
PLANO TX 75026-2409

Respondent Name

NEW HAMPSHIRE INSURANCE CO

Carrier's Austin Representative

Box Number 19

MFDR Tracking Number

M4-13-1702-01

MFDR Date Received

March 5, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "We have received your payment on the above patient, however it was audited incorrectly. We billed procedure code 22830-59 in the amount of \$2663.00 and you have denied as included in another procedure billed. According to Medicare, modifier '59' indicates a distinct or independent from the services performed on the same day. This procedure should pay in the full amount."

Amount in Dispute: \$1,332.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "New Hampshire Insurance Company has reviewed the medical Fee Dispute Resolution Request/Response (DWC-60). It is the Carrier's position that there is no additional money owed to the requestor, Texas Back Institute for the 9/3/2012 date of service. The bill has been audited two separate times, 10/4/2012 when a check was issued in the amount of \$8,618.32 and again on 1/23/2013. I have attached the two EOR's. The bill was paid in accordance with the Workers Compensation State Fee Guidelines. The Carrier is going to maintain their denial that the additional \$1,332.00 is not owed to the requestor, Texas Back Institute."

Response Submitted by: AIG Insurance Dallas Worker's Compensation Service Center

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 3, 2012	22830-59	\$1,332.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.

3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 2 (97) – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
- 3 – (59) Processed based on multiple or concurrent procedure rules
- 2 – The charge for this procedure exceeds the fee schedule allowance
- 3 – By clinical practice standards, this procedure is incidental to the related primary procedure billed

Issues

1. Did the requestor bill in conflict with the NCCI edits?
2. Did the requestor meet the documentation requirements for appending modifier -59 to CPT code 22830?

Findings

1. Per 28 Texas Administrative Code § 134.203 “(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.”

The division completed NCCI edits to identify edit conflicts that would affect reimbursement. The requestor billed the following CPT/HCPC codes on September 3, 2012; 22612, 22614, 22830-59, 22214, 22216, 22842, 63710-59, 20926, 20931, 38220-59, 38220-59 and 38220-59. The following NCCI edit was identified: “Per CCI Guidelines, Procedure Code 22830 [Exploration spinal fusion] has a CCI conflict with Procedure Code 22612 [Arthrodesis posterior/posterolateral lumbar]. Review of documentation to determine if a modifier is appropriate.”

Review of the submitted documentation documents that the requestor appended modifier -59 to CPT code 22830.

2. The requestor appended modifier -59 to CPT code 22830. The CPT Manual defines modifier -59 as follows:
“Modifier -59: “Distinct Procedural Service: Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used. NCCI edits define when two procedure HCPCS/CPT codes may not be reported together except under special circumstances. If an edit allows use of NCCI-associated modifiers, the two procedure codes may be reported together if the two procedures are performed at different anatomic sites or different patient encounters. Carrier processing systems utilize NCCI-associated modifiers to allow payment of both codes of an edit. Modifier -59 and other NCCI-associated modifiers should NOT be used to bypass an NCCI edit unless the proper criteria for use of the modifier is met. Documentation in the medical record must satisfy the criteria required by any NCCI-associated modifier used.”

Review of the submitted documentation finds that the requestor has not met the documentation requirements for appending the modifier -59 to CPT code 22830. As a result, reimbursement cannot be recommended for date of service September 3, 2012 for CPT code 22830-59.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	November 7, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.